



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN**

**GERALD C. MANN  
ATTORNEY GENERAL**

**Honorable George H. Sheppard  
Comptroller of Public Accounts  
Austin, Texas**

**Dear Sir:**

**Opinion No. 6-1403**

**Re: Disposition of fees collected by  
county tax collector under the pro-  
visions of Section 57, House Bill  
407, Acts Regular Session, 46th  
Legislature.**

By your letter of September 8th, you ask the opinion of this department upon several questions relating to Section 57 of House Bill 407, Acts of the 46th Legislature, entitled, "Certificate of Title Act." Although three questions are put by your letter, the basic inquiry is as follows:

**"What disposition should be made of the 10¢ fee which is paid the Tax Collector as Agent for the State on each certificate of title issued by the Department of Public Safety, under the provisions of House Bill 407, Acts of the 46th Legislature, and particularly Section 57 thereof?"**

You state that the argument has been made that this is a specific duty placed upon the Tax Collector by statute, and that an Agent of the State he is entitled to use such funds as the statute has required to be paid to him as such Agent as are necessary for compliance with the provisions of the Act, including the hiring of such additional help as might be necessary to properly collect the fee.

**Section 57 of House Bill 407 reads as follows:**

**"Each applicant for a certificate of title or reissuance thereof shall pay to the designated agent the sum of 25¢ which shall be forwarded to the Department together with the application for certificate of title within twenty-four hours after same has been received by him, and the Department shall return to the designated agent each month**

10¢ for each application to which a certificate of title has been issued, and the balance shall be paid over to the Treasurer of this State to be credited to the General Revenue Fund of this State."

House Bill 407 defines the term "designated agent" as having reference to the Assessor and Collector of Taxes of the particular county, and provides that he may act in such matters through any of his regular deputies.

Article 3912a, Vernon's Revised Civil Statutes, provides in part as follows:

"Section 1. No district officer shall be paid by the State of Texas any fees or commissions for any service performed by him; nor shall the State or any county pay to any county officer in any county containing a population of twenty thousand (20,000) inhabitants or more according to the last preceding Federal Census any fee or commission for any service performed by him as such officer; provided, however, that the Assessor and Collector of Taxes shall continue to collect and retain for the benefit of the Officers Salary Fund or funds hereinafter provided for, all fees and commissions which he is authorized under law to collect; and it shall be his duty to account for and to pay all such monies received by him into the fund or funds created and provided for under the provisions of this Act; ..."

Section 2 of such Article provides for the determination by the Commissioners' Court, in counties of less than 20,000 inhabitants, as to whether such precinct officers and officers of the county shall be compensated on a salary basis.

Section 3 of such Article provides in part as follows:

"In all cases where the Commissioners' Court shall have determined that county officers or precinct officers in such county shall be compensated for their services by the payment of an annual salary, neither the State of Texas nor any county shall be charged with or pay to any of the officers

so compensated, any fee or commission for the performance of any or all of the duties of their offices but such officers shall receive said salary in lieu of all other fees, commissions or compensation which they would otherwise be authorized to retain; provided, however, that the assessor and collector of taxes shall continue to collect and retain for the benefit of the Officers' Salary Fund or funds hereinafter provided for all fees and commissions which he is authorized under law to collect; and it shall be his duty to account for and to pay all such monies received by him into the fund created and provided for under the provisions of this Act; ..."

Section 5 of the Article provides in part as follows:

"It shall be the duty of all officers to charge and collect in the manner authorized by law all fees and commissions which are permitted by law to be assessed and collected for all official service performed by them. As and when such fees are collected they shall be deposited in the Officers' Salary Fund, or funds provided in this Act. ..."

The effect of House Bill 407 of the 46th Legislature is to impose upon the office of Assessor and Collector of Taxes the duty of issuing certificates of title under the provisions of such Act. There is nothing in the Act which reflects the intention of the Legislature to amend in any particular the provisions of Article 3912e, and to provide that the Assessor and Collector of Taxes shall receive the 10¢ fee provided for by Section 57 of House Bill 407, in addition to the salary or compensation provided by law for the office of Assessor and Collector of Taxes. That House Bill 407 does not contemplate that the Assessor and Collector of Taxes shall use the 10¢ fee, personally, for hiring additional help is made more apparent by the observation that House Bill 407 provides that he may act, in issuing such certificates of title, through his regular deputies.

Under the provisions of Article 3912e, above referred to, it is entirely clear that the Assessor and Collector

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of Taxes is required to collect this 10¢ fee provided for by House Bill 407 as one of the fees of office which, under the fee system, he would have been permitted to retain, and that as and when such fees are collected by him, he shall deposit them in the Officers' Salary Fund, in accordance with the terms and provisions of Article 3912c.

**Yours very truly**

**APPROVED SEPT. 14, 1939**

**ATTORNEY GENERAL OF TEXAS**

**/s/ Gerald C. Mann**

**By**

**ATTORNEY GENERAL OF TEXAS**

**/s/ R. W. Fairchild  
Assistant**

**RWF:pbp**

**APPROVED OPINION COMMITTEE BY KWC CHAIRMAN**